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UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF NEW YORK

In Re:

DINASO & SONS BUILDING SUPPLY CO., INC.,

Debtor.

Case No. 14-42298-cec

Chapter 7

**APPLICATION FOR ORDER AUTHORIZING FINAL COMPENSATION TO KEY
AGENCY INC. PURSUANT TO 11 U.S.C. § 330 AS REAL ESTATE BROKER FOR THE
TRUSTEE**

**TO THE HONORABLE CARLA E. CRAIG
UNITED STATES BANKRUPTCY JUDGE:**

By this application, Key Agency Inc., ("Key Agency"), by and through its attorneys, Lindabury, McCormick, Estabrook & Cooper, P.C., Jeffrey R. Merlino, Esq., appearing, pursuant to section 11 U.S.C. § 330 of the Bankruptcy Code, respectfully represents, in support of its application for the final allowance of compensation, as follows:

I. BACKGROUND

1. Key Agency is a real estate brokerage licensed in the State of New Jersey with offices at 1356 Highway 36, Hazlet, New Jersey 07730.

II. RETENTION

1. On September 16, 2014, Key Agency Inc. entered into a brokerage agreement with the Trustee to market and sell real property owned by the estate located at 133 Ocean Avenue, Lakewood, New Jersey (the "Property"). (Declaration of Ronald Raimondo, Exhibit A).

2. On September 24, 2014, this Court entered an order approving Key Agency Inc.'s retention by the Trustee to market and assist the Trustee in selling the Property. (Declaration of Ronald Raimondo, Exhibit B). The Order provided that Key Agency Inc. would be entitled to a brokerage commission of four percent (4%) of the gross sale price and reimbursement of marketing expenses up to \$4,000 from the sales price, with said commission and reimbursement of expenses to be paid upon the closing of the Property.

III. SERVICES RENDERED

1. In accordance with the brokerage agreement with the Trustee, Key Agency Inc. engaged in a significant and sustained marketing campaign for the Property including the following:

- a. Advertised the Property on the Multiple Listing Service (MLS), with Internet Data Exchange to all multiple listings throughout the United States.
- b. Listed the Property on Realtor.com.
- c. Marketed the Property on Loopnet.com, Co-star.com, and Showcase.com, all well-known internet based commercial property listing services.
- d. Caused street signs to be placed in the surrounding community to advertise the Property as for sale.

- e. Engaged in an e-mail campaign to raise awareness and advertise the Property to some 3500 real estate agents and brokers.
- f. Ran advertisements for the Property in print media.
- g. Advertised the Property using the Pro-Fax service to over 10,000 recipients in the targeted industry (lumber yards).
- h. Profiled the Property on Professional Networking meetings of real estate brokers and purchasers of commercial property.

(Declaration of Ronald Raimondo, ¶ 5)

2. As a result of Key Agency Inc.'s efforts, the Property received 80 inquiries and was shown to 49 potential buyers. (Declaration of Ronald Raimondo, Exhibit C). As a result of these efforts, multiple offers were made to purchase the Property.

3. Since there were multiple bids, the Trustee approved sale procedures to auction the Property at his office. At the auction, a silent phone bidder (identity not provided to Key Agency Inc.) was determined by the Trustee to be the highest qualified bidder from the auction.

4. The highest/winning bid was \$2 million.

IV. COMPENSATION

1. Key Agency Inc.'s total expenses incurred in connection with the sale of the Property were \$3,192.00. (Declaration of Ronald Raimondo, Exhibit C).

2. The brokerage agreement with the Trustee provides in Paragraph 4: "If before the Expiration Date a contract for the sale or exchange of the property is executed, regardless of who brought about such sale or exchange (including the Owners), the Owners shall pay a commission of 4% of the sale price to the Listing Realtor. The commission shall be due and payable upon

closing of title..." (Declaration of Ronald Raimondo, Exhibit A). The parties subsequently amended, through the Court approval process, only the percentage of commission due to Key Agency Inc.: four percent (4%) became three percent (3%).

3. Key Agency Inc. reasonably relied on the brokerage agreement and, through Key Agency Inc.'s efforts, the Property received multiple bids directly resulting in the auction sale procedure.

4. As set forth in the affirmation of Ronald Raimondo (Docket No. 59-1), Ronald Raimondo represents no interest adverse to the Debtor, its creditors or its estate and is a disinterested person pursuant to §101(14) of the Code.

5. This Application has been served on the United States Trustee's Office.

6. No prior application for the relief requested herein has been made to this or any Court.

WHEREFORE, Key Agency prays for the entry of an Order:

1. Allowing fees to Key Agency in the total amount of sixty-three thousand one hundred ninety-two dollars (\$63,192.00) and authorizing payment by the Trustee; and

2. Granting such further relief as this Court may deem just and proper.

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Dated: New York, New York
February 18, 2015